

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:18-cv-00211-MR-WCM**

RED SQUARE PROPERTIES, LLC,)
a North Carolina Limited Liability)
Company,)

Plaintiff,)

vs.)

ORDER

TOWN OF WAYNESVILLE, NORTH)
CAROLINA, a North Carolina)
municipality, and ELIZABETH)
TEAGUE, in her official capacity,)

Defendants.)

THIS MATTER is before the Court on the Defendants' Motion to Dismiss [Doc. 24]; the Magistrate Judge's Memorandum and Recommendation [Doc. 30] regarding the disposition of that motion; the Plaintiff's Motion to Allow Plaintiff to Voluntarily Dismiss Pursuant to Rule 41(a)(2) [Doc. 31]; and the Plaintiff's Objections to the Memorandum and Recommendation [Doc. 33].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate

Judge, was designated to consider the Defendants' Motion to Dismiss and to submit a recommendation for its disposition.

On May 22, 2019, the Magistrate Judge filed a Memorandum and Recommendation in this case, recommending: (1) that the Plaintiff's first, third, and fourth claims be dismissed without prejudice on ripeness grounds; (2) that the Court decline to exercise supplemental jurisdiction over the Plaintiff's second and fifth claims and that said claims be dismissed without prejudice; and (3) that the Plaintiff's sixth claim be dismissed without prejudice. [Doc. 30]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. On May 31, 2019, the Plaintiff filed a motion seeking a voluntary dismissal of all claims asserted in the Complaint without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. [Doc. 31]. On June 5, 2019, the Plaintiff filed objections to the Memorandum and Recommendation. [Doc. 33]. On June 6, 2019, the Defendants filed a Response to the Plaintiff's Rule 41(a)(2) motion, advising that they do not oppose the voluntary dismissal of this action by the Plaintiff.

In light of the Defendants' lack of opposition, the Court concludes that the Plaintiff's motion for voluntary dismissal should be granted. Accordingly,

the Defendants' Motion to Dismiss, the Memorandum and Recommendation entered by the Magistrate Judge, and the Objections to the Memorandum and Recommendation are now moot.

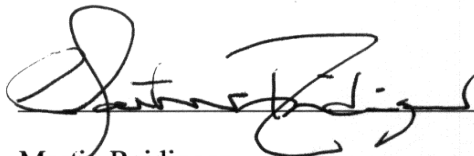
IT IS, THEREFORE, ORDERED that the Plaintiff's Motion to Allow Plaintiff to Voluntarily Dismiss Pursuant to Rule 41(a)(2) [Doc. 31] is **GRANTED**, and the Plaintiff's claims against the Defendants are hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Defendants' Motion to Dismiss [Doc. 24], the Magistrate Judge's Memorandum and Recommendation [Doc. 30], and the Plaintiff's Objections to the Memorandum and Recommendation [Doc. 33] are **DENIED AS MOOT**.

The Clerk of Court is respectfully directed to close this case.

IT IS SO ORDERED.

Signed: June 7, 2019


Martin Reidinger
United States District Judge

